

INFORMATION SHEET
DETERMINATIONS OF NO JURISDICTION FOR ISOLATED, NON-NAVIGABLE, INTRA-STATE WATERS
RESULTING FROM U.S. SUPREME COURT DECISION IN SOLID WASTE AGENCY OF NORTHERN COOK
COUNTY V. U.S. ARMY CORPS OF ENGINEERS

DISTRICT OFFICE: Walla Walla District

FILE NUMBER: NWW No. 062100100

REGULATORY PROJECT MANAGER: Gregory J. Martinez **Date:** November 21, 2006

PROJECT REVIEW/DETERMINATION COMPLETED: **In the office (Y/N)** N **Date:** _____
At the project site (Y/N) Y **Date:** June 16, 2006

PROJECT LOCATION INFORMATION:

State: Idaho

County: Valley

Center coordinates of site by latitude & longitudinal coordinates: Zone:11 North:4973689 East:571763

Approximate size of site/property (including uplands & in acres): 10 acres

Name of waterway or watershed: unnamed tributary of Payette Lake

SITE CONDITIONS:

Type of aquatic resource ¹	0-1 ac	1-3 ac	3-5 ac	5-10 ac	10-25 ac	25-50 ac	> 50 ac	Linear feet	Unknown
Lake									
River									
Stream									
Dry Wash									
Mudflat									
Sandflat									
Wetlands	X (.16)								
Slough									
Prairie pothole									
Wet meadow									
Playa lake									
Vernal pool									
Natural pond									
Other water (identify type)									

¹Check appropriate boxes that best describe type of isolated, non-navigable, intra-state water present and best estimate for size of non-jurisdictional aquatic resource area.

Migratory Bird Rule Factors ¹ :	If Known		If Unknown Use Best Professional Judgment		
	Yes	No	Predicted to Occur	Not Expected to Occur	Not Able To Make Determination
Is or would be used as habitat for birds protected by Migratory Bird Treaties?	x				
Is or would be used as habitat by other migratory birds that cross state lines?	x				
Is or would be used as habitat for endangered species?		x			
Is used to irrigate crops sold in interstate commerce?		x			

¹Check appropriate boxes that best describe potential for applicability of the Migratory Bird Rule to apply to onsite, non-jurisdictional, isolated, non-navigable, intra-state aquatic resource area.

TYPE OF DETERMINATION: Preliminary _____ Or Approved X

ADDITIONAL INFORMATION SUPPORTING NJD (e.g., paragraph 1 – site conditions; paragraphs 2-3 – rationale used to determine NJD, including information reviewed to assess potential navigation or interstate commerce connections; and paragraph 4 – site information on waters of the U.S. occurring onsite):

The small 0.16 acre wetland is composed of dogwood, willow and aspen as the over story and various sedges in the under story. The wetland receives water from a constructed roadside ditch on the south side of Louisa Avenue. The ditch ends and discharges the water it carries into a small depressional area where the water subs into the ground. The small wetland has no surface connection to any other man-made ditch or to any natural drainage. A natural drainage exists approximately 60 feet to the east of the wetland, however, there is no surface connection between the small wetland and intermittent drainage.

Based on the Supreme Court ruling in the court case, Solid Waste Agency of Northern Cook County v. US Army Corps of Engineers, No. 99-1178 (January 9, 2001) the Department of the Army no longer has regulatory jurisdiction over isolated, non-navigable, intrastate waters of the United States, if the sole nexus to interstate commerce is the use of the waters by migratory birds. Therefore, the small wetland is isolated and not regulated under Section 404 of the Clean Water Act.